

KATE BROWN
SECRETARY OF STATE



ELECTIONS DIVISION
STEPHEN N. TROUT
DIRECTOR
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SALEM, OREGON 97310-0722
(503) 986-1518

For Immediate Release:
January 19, 2012

Contact: Lydia Plukchi
Elections Division
(503) 986-1518

The Office of the Secretary of State received a certified ballot title from the Attorney General on December 18, 2012, for initiative petition #38, proposing a statutory amendment, for the General Election of November 6, 2012.

In addition, Secretary of State Kate Brown determined that the proposed initiative petition was in compliance with the procedural requirements established in the Oregon Constitution for initiative petitions.

The certified ballot title is as follows:

**Authorizes Privately-Owned Wood Village Casino; Mandates Percentage Of
Revenues Payable To Dedicated State Fund**

Result of "Yes" Vote: "Yes" vote authorizes a single privately-owned casino in Wood Village; requires casino to give percentage of monthly revenue to State Lottery for specified purposes.

Result of "No" Vote: "No" vote maintains current state of the law, which does not authorize any privately-owned casino within state; tribal casinos authorized pursuant to gaming compacts.

Summary: Currently, Oregon Constitution prohibits privately-owned casinos within state. Under measure, State Lottery shall issue renewable 15-year lease permitting owner of former Multnomah Kennel Club in Wood Village to operate gaming devices, table games, keno, and other games of chance at that site. Measure would become operative only if constitution is amended to permit privately-owned casinos within state. Casino operator shall pay 25% of adjusted gross revenues monthly to State Lottery. Lottery shall deposit 20% of adjusted gross revenues into Job Growth, Education and Communities Fund (separate from general fund), and 80% in State Lottery Fund. Moneys in the Job Growth fund are apportioned to the incorporated cities adjoining casino, Indian tribes, law enforcement, and gambling treatment services. Other provisions.

Chief Petitioner(s): Matt Rossman, 5933 Sun creek Drive, Lake Oswego, OR 97035 and Bruce Studer, 5933 Sun creek Drive, Lake Oswego, OR 97035.

Copies of the text of this initiative are available at Suite 501, 255 Capitol St NE, for \$.25. Written requests for copies with your remittance of \$1.00 prepaid, should be addressed to: Elections Division, 255 Capitol St NE, Ste 501, Salem, OR 97310.

There now follows an appeal period of 10 business days. Any elector dissatisfied with the ballot title certified by the Attorney General, who also submitted in a timely manner written comments which addressed the specific legal standards a ballot title must meet, may petition the Supreme Court for a different title. The appeal period ends at 5:00 p.m. on February 1, 2012. The appeal procedures are outlined in ORS 250.085.

The required number of signatures for placement on the 2010 general election ballot is 87,213. These signatures shall be filed in this office not later than July 6, 2012.

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**DEPARTMENT OF JUSTICE
APPELLATE DIVISION**

January 18, 2012

Stephen N. Trout
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

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KATE BROWN
SECRETARY OF THE STATE

Re: Proposed Initiative Petition — Authorizes Privately-owned Wood Village Casino; Mandates Percentage Of Revenues Payable To Dedicated State Fund
DOJ File #BT-38-11; Elections Division #38

Dear Mr. Trout:

We have reviewed the comments submitted in response to the draft ballot title for the above-referenced prospective initiative petition. We provide the enclosed certified ballot title. We have changed the draft caption, the “yes” statement, the “no” statement, and the summary in response to the comments.

This letter summarizes the comments we received, our response to those comments, and the reasons we made changes or declined to make some of the changes suggested by the commenters. Under ORAP 11.30(7), this letter must be included in the record in the event the Oregon Supreme Court is asked to review this ballot title.

We received comments from Gregory Chaimov on behalf of chief petitioners Bruce Studer and Mark Rossman. We address below those commenters’ objections to the various sections of the draft ballot title.

A. CAPTION

The draft caption prepared by this office is as follows:

Authorizes Multnomah County casino; casino to contribute monthly revenue percentage to state for specified purposes

Commenters Studer and Rossman posit that, for the caption to comply with ORS 250.035(2)(a), four changes are required: (1) the reference to the contribution of revenues should state the percentage dedicated; (2) the word “taxpaying” should modify “casino”; (3) the reference to “Multnomah County” should be changed to “Wood Village”; and (4) the phrase “specified purposes” should be changed to “public purposes.” Chaimov 2-3.

We disagree with the commenters’ first two suggestions. While denominating the casino as a “taxpaying” entity that contributes 25% of its revenues may be of assistance to some voters, those factors are not an essential part of the subject matter of the measure. However, we agree with the commenters’ suggestion that most voters’ experience will be with tribal casinos and that the caption should indicate that the measure authorizes a privately-owned casino, as opposed to a casino operated by a tribal or governmental entity.

Because the phrase “taxpaying casino” is not an essential part of the subject matter of the measure, however, we decline to adopt that phrase. Instead, we adopt the phrase “privately-owned.” Ordinarily, private businesses are taxable; it is not necessary to state that fact in the caption. Privately-owned implies “taxpaying” and is neutral. Moreover, we believe that the use of the word “private” conveys that the casino will be privately owned, rather than owned by a tribal or other governmental entity.

We also note that the measure uses the phrase “taxable corporation,” not “taxpaying” corporation. The fact that a corporation is taxable does not necessarily mean that the corporation will, in fact, pay Oregon taxes. Depending on the particular corporation’s structure, its losses, and any exemptions or deductions, it may not pay any taxes during any given tax year. Finally, the fact that the measure uses the phrase “taxable corporation” does not require that the ballot title use a similar expression.

We agree that the phrase “Multnomah County” should be changed to “Wood Village,” and we have modified the caption accordingly.

Finally, the commenters agree that the casino will make its payments to the “state,” but suggest that the caption should be broadened to suggest the public

nature of the purposes to which the revenues will be put. Chaimov 3. Accordingly, the commenters suggest using the phrase “public purposes,” instead of “specified purposes.” We agree that, under the measure, the revenues are dedicated to a state fund that is restricted to particular uses. However, because the phrase “public purposes” is vague and could suggest that the revenues are fungible, we decline to adopt that term. We have modified the ballot title caption to reflect the fact that the revenues are payable to a dedicated state fund. The uses to which those funds will be put is discussed elsewhere in the ballot title.

Consistent with our responses to the comments, we certify the following caption:

Authorizes privately-owned Wood Village casino; mandates percentage of revenues payable to dedicated state fund

B. RESULT STATEMENTS

The commenters assert that both the “yes” statement and the “no” statement fail to comply with statutory requirements for the same reasons they laid out with respect to the caption. Chaimov 4. The commenters also suggest that, by using the phrase “privately-owned” as opposed to “taxpaying casino,” the draft “yes” statement deviates from the language of the measure in a way that is misleading.

For the reasons already explained above with respect to the caption, we disagree that the draft “yes” and “no” statements are misleading in the way the commenters assert. Moreover, as drafted, the “yes” statement explains that the measure “requires casino to give percentage of monthly revenue to State Lottery for specified purposes.” We believe that phrase adequately and clearly informs voters that the dedicated funds will be put to public, as opposed to private, uses.

We agree, however, that the phrase “Multnomah County” should be changed to “Wood Village,” and we have modified the draft “yes” statement accordingly.

Finally, the commenters state that the “no” statement misstates the current law. The draft “no” statement provides: “‘No’ vote maintains the current state of the law, which does not authorize any privately-owned casinos or casinos anywhere in the State of Oregon.” The commenters suggest that there are casinos in the State of Oregon because casinos operated by federally-recognized Indian tribes are allowed.

We agree with the commenters that tribally owned casinos are operated “within” the State of Oregon, and we have modified it accordingly.

Consistently with our responses to the comments, we certify the following “yes” and “no” statements:

Result of “Yes” Vote: “Yes” vote authorizes a single privately-owned casino in Wood Village; requires casino to give percentage of monthly revenue to State Lottery for specified purposes.

Result of “No” Vote: “No” vote maintains current state of the law, which does not authorize any privately-owned casino within state; tribal casinos authorized pursuant to gaming compacts.

C. SUMMARY

Finally, the chief petitioners assert that the draft summary “carries forward the problems of the caption, yes statement, and no statement.” Chaimov 5. They do not, however, offer any specific comments regarding the summary; rather, they simply rewrite the summary in its entirety. For the reasons already explained above, we disagree that the summary is misleading in the way the commenters assert. Consistently with our responses to the comments, however, we have modified the summary, and we certify the summary in the attached ballot title.

Conclusion

We have modified the caption, the "yes" statement, the "no" statement, and the summary in response to the comments we received. We certify the attached ballot title pursuant to ORS 250.067(2).

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Enclosure

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BALLOT TITLE

**Authorizes Privately-Owned Wood Village Casino; Mandates Percentage Of
Revenues Payable To Dedicated State Fund**

Result of “Yes” Vote: “Yes” vote authorizes a single privately-owned casino in Wood Village; requires casino to give percentage of monthly revenue to State Lottery for specified purposes.

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